Sir Roland Braddell has argued that, although Federal Counsel have a right of audience before the Courts, he is not an advocate and solicitor and, therefore, had no right to enter an appearance on behalf of the two defendants. The rights of a Federal Counsel are set out in section 55(2) of the Advocates and Solicitors Ordinance, 1947, as amended, and reads as follows :—

"55(2) Nothing herein shall affect the right (which is hereby declared) of the Attorney-General and of any person appointed to be Attorney-General, Solicitor-General or a Federal Counsel to appear and plead and to do all other things necessary in respect of litigation or proceedings in any Court in the Malayan Union in respect of any matter in which he or Deputy Public Prosecutor is so instructed to do by or on behalf of Government; and the Attorney-General or the Solicitor-General shall have such priority as is customary in England in the case of the Attorney-General and of the Solicitor-General respectively."

It has been argued that that sub-section does not stand alone and that a number of other Ordinances and the Federation of Malaya Agreement, 1948 must be taken into consideration in construing the sub-section. The following cases have been cited in support of this contention :—

Canada Sugar Refining Company, Ltd. v. The Queen[1]. In that case Lord Davey stated : "Every clause of a statute should be construed with reference to the context and the other clauses of the Act."

Vacuum Oil Company v. Secretary of State[2]. In that case it was held that "the Court should not deal separately with the terms of an enactment which is in its nature composite."

Barker v. Edgar & Ors.[3] Lord Hobhouse stated, at page 754 :—

"The general maxim is, *Generalia specialibus non derogant*. When the Legislature has given its attention to a separate subject, and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly."

Corporation of Blackpool v. Starr Estate Company,[4], Viscount Haldane stated, at page 34 :—

"We are bound to apply a rule of construction which has been repeatedly laid down and is firmly established. It is that whenever Parliament in an earlier statute has directed its attention to an individual case and has made provision for it unambiguously, there arises a presumption that if in a subsequent statute the Legislature lays down a general principle, that general principle is not to be taken as meant to rip up what the Legislature had before provided for individually, unless an intention to do so is specially declared."

The Thames and Mersey Marine Insurance Company, Ltd. v. Hamilton, Fraser & Co.[5]. There, it was held that where the same words have for many years received a judicial construction it is not unreasonable to suppose that parties have contracted upon the belief that their words will be understood in what Lord Halsbury called "the accepted sense".

A passage was also quoted from *Craies* on *Statute Law*, 5th edition, page 205, in which it is stated that "if the general and specific enactments prove to be in any way repugnant to one another, the question will arise, which is to control the other?"

I cannot see that any of these authorities affect the proper construction of section 55(2) of Ordinance No. 4 of 1947. From the wording of this sub-section it would appear probable that some doubt was felt as to what were the privileges of the members of the Legal Department prior to the passing of this Ordinance, and for this reason the words "which is hereby declared" were inserted. The rights of Federal Counsel which are declared are "to appear and plead and to do all other things necessary in respect of litigation or proceedings in any Court .... in respect of any matter in which he .... is so instructed to do by or on behalf of Government." In this case Federal Counsel was instructed to enter an appearance for the second and third defendants by the Attorney-General. In my opinion it gives the Federal Counsel the right to enter an appearance in respect of proceedings in any Court when so instructed by the Government. It is true that in the Federation of Malaya Agreement Federal Counsel are only given the right of audience but I do not think that that provision, or the provisions of other later Ordinances which have been quoted to me, can be held to have whittled down clear rights given to Federal Counsel under the Advocates and Solicitors Ordinance.

It is to be observed that under Article 153 of the of the Federation of Malaya Agreement, the Court has no power to interpret the provisions of the Agreement and I have not been asked to refer the matter to the Interpretation Tribunal.

In my opinion my decision in this application relates only to the interpretation of section 55(2) of the Advocates and Solicitors Ordinance and does not involve an interpretation of the Federation Agreement.

The application must be dismissed with costs.

Application dismissed.

Solicitors for the plaintiff : *Braddell & Ramani.*

THAM FATT v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 4, 1954]

[Singapore — Magistrate's Appeal No. 228 of 1953]

Evidence — Evidence Ordinance, s. 27 — How much of information received from accused may be proved.

Before a case comes within section 27 of the Evidence Ordinance such part of the statement as is admissible under that section should be proved to the Court. If it does not come within that section it should not be mentioned at all. The formula "In consequence of what the accused said I did so and so" is all wrong.

MAGISTRATE'S APPEAL.

David Marshall for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — This was an ordinary case of being in possession of chandu. The offence took place in a sampan near a ship made fast to a wharf. The appellant was not a regular member of the crew of the sampan, but was said to be on board for the purposes of repairing the engine. His qualifications for doing so were not at all obvious.

The only part of the case which called for comment arose from the fact that the appellant, whilst in custody, made a statement and afterwards chandu was found very well concealed in the sampan. Before a case comes within section 27 of the Evidence Ordinance such part of the statement as is admissible under that section should be proved to the Court. If it does not come within that section it should not be mentioned at all. The formula "in consequence of what the accused said I did so and so" is all wrong and if I thought that the appellant had been prejudiced I would quash the conviction. I do not think that it could have done him any harm in the present case.

Appeal dismissed.

Solicitors for the appellant: *Battenberg & Talma.*

SEAH CHOON YONG & ANOR. v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 19, 1954]

[Singapore — Magistrate's Appeals Nos. 41 & 43 of 1954]

Dangerous Drugs Ordinance, 1951, s. 6 — Protection of informers, s. 40 — Forfeiture of Car in which opium was found, s. 30 — Negligence no ground for forfeiture — Some degree of complicity of owner is necessary.

The first appellant Seah Choon Yong was the owner of the motor car in which opium was found; the second appellant Tay Kai Kee borrowed the car from the first appellant. The opium was found under the rear seat of the car in which the 2nd appellant was driving in company with another person who was not present at the trial. The second appellant was charged with being in possession of raw opium under section 6 of the Dangerous Drugs Ordinance, 1951.

Evidence by the 2nd appellant at the trial appeared to show that he had given information of the opium two days prior to the arrest to the detective who stopped the car and arrested the accused. The second appellant was convicted.

The first appellant (the owner of the car) was called upon to show cause why the car should not be forfeited in accordance with section 30 of the Ordinance. All knowledge that the car was to be used for the conveyance of opium was denied. It was also argued by counsel for the defence that even if the owner had knowledge of the fact that the 2nd appellant had informed the police, he was an informer in accordance with section 40 of the Ordinance, and that the car was used as a police trap to catch the criminals and therefore there was no *mens rea*. The forfeiture of the car was ordered. On these facts the 1st appellant appealed against the forfeiture. The accused (the second appellant) appealed against the conviction and sentence.

Held: from the evidence, the 2nd appellant appeared to have acted as a police informer before the offence was committed and that if his story was true he was guilty, if at all, in a purely technical sense and therefore the case should be sent back for a retrial. The decision on the forfeiture of the car must necessarily await the retrial of the whole case.

MAGISTRATE'S APPEAL.

Philip Hoalim Jr. for the 1st appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — The facts of the case are peculiar. The appellant-accused was unrepresented. He did not cross-examine any witnesses but called as a witness a former police officer who had been called for the prosecution. From what this witness said it would appear that the appellant had acted as an informer before the offence was committed and drove the principal offender and his chandu at the direction of this police officer. I think that the matter should be cleared up. If the story is true the appellant was only guilty, if at all, in a purely technical sense.

As regards the order for forfeiture, I think that the learned District Judge misdirected himself. The relevant words are "knowledge, consent or connivance" and I consider that Seah Choon Yong was the owner for the purposes of the enquiry. I do not think that negligence is a ground for forfeiture unless there is knowledge, consent or connivance.

Retrial ordered.

Solicitors for 1st appellant: *Philip Hoalim & Co.*

TAN BOON SENG v. PUBLIC PROSECUTOR.

[A. Cr. J. (Storr J.) June 17, 1954]

[J. B. — Criminal Appeal No. 14 of 1954]

Road Traffic — Traffic (Restrictions on Use of Roads) Order 1953 reg. 3(c)(ii) — Charge of using vehicle with three or more axle weights which weight exceeds 5½ tons — Proof of correctness of weighing.

In this case the appellant was convicted on a charge under Regulation 3(c)(ii) of the Traffic (Restrictions on